

Application No.: 09/981840

Docket No.: 10003813-1  
AGIL-27,343REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-30, and 37-39 are pending in this application.

Claims 4-7 and 19-21 have been withdrawn from consideration.

Claims 1, 17, and 37 have been amended.

Regarding the § 102 Rejection

Claims 1-3, 13-18, 27-30, 37, and 38 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,919,155 (*Lattin*).

Applicant would agree with the Examiner that *Lattin* discloses a flexible circuit. Applicant would also agree that the flexible and extendable structure of *Lattin* can be extended out of its original plane. Applicant points out that when the extendable structure (75) of *Lattin* is extended out of its plane portions of the original top side of the structure will flip and face in the general direction that the original bottom side of the structure faced. In other words, portions of the top side of the structure, when extended, will face in a generally bottom side direction when the structure of *Lattin* is extended. See *Lattin* Figures 14-18.

Referring now to Claim 1, as amended, Claim 1 recites a substrate having a top side. There is a "flexible and extensible structure formed within said substrate and co-planar with said substrate, said structure having a structure top side." The structure is extendable out of the plane "by a distance greater than the maximum lateral dimension of said structure, such that said structure top side continues to face in a general top side direction." Applicant respectfully submits that all of the *Lattin's* top side of its structure will not continue to face in a general top side direction when *Lattin's* structure is extended out of its plane a distance greater than a maximum lateral dimension of the structure. As such, Applicant respectfully submits that Claim

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1 is not anticipated by *Lattin* and respectfully requests that the §102 rejection be withdrawn. Applicant further submits that Claim 1 is ready for allowance.

With respect to Claims 2, 3, and 13, these claims are either directly or indirectly dependent upon independent Claim 1 and are therefore not anticipated for at least the same reasons as discussed above with respect to Claim 1. Applicant respectfully requests that the §102 rejection be withdrawn and submits that these claims, 2, 3, and 13, are ready for allowance.

With respect to Claim 14, this claim is dependent upon Claim 1 and is therefore not anticipated for the same reasons as discussed above with respect to Claim 1. Furthermore, Claim 14 recites that "said structure is defined by dashed perforations." Applicant points out that Figure 18, as presented by the Examiner for representing dashed perforations, is in fact a cut-away or side view of the *Lattin* device shown in Figure 16. The depicted spaces are not perforations but instead are the spaces that are between the structure 75 shown in Figure 16. No perforations are presented, disclosed, or alluded to in *Lattin*. As such, Applicant respectfully further submits that Claim 14 is not anticipated by *Lattin* because *Lattin* does not teach, allude to or anticipate dashed perforations. Applicant respectfully requests that this §102 rejection be withdrawn and submits that Claim 14 is ready for allowance.

With respect to Claim 15, this claim is dependent upon Claim 1 and is therefore not anticipated for at least the same reasons as discussed above with respect to Claim 1. Furthermore, Claim 15 recites that the structure comprises "a boss" for receiving a force to extend said structure out of said plane. Applicant respectfully disagrees with the Examiner that element 74 of *Lattin* could be considered a boss as discussed or disclosed in the present application. See, for example, Figure 1, 2 and 3 showing elements 118 and 122 in the present application. As such Applicant respectfully submits that Claim 15 is not anticipated by *Lattin* and respectfully requests that this §102 rejection be withdrawn.

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Claim 16 is dependent on Claim 1 and it is therefore not anticipated for at least the reasons as discussed above with respect to Claim 1. Applicant respectfully requests that the §102 rejection be withdrawn and submits that Claim 16 is ready for allowance.

Independent Claim 17, as amended, recites that there is a "flexible and extensible structure formed within said substrate and co-planar with said substrate." The "flexible and extensible structure includes a top side and is extendable out of said plane by a distance greater than a maximum lateral dimension of said structure such that said top side remains facing in a general top side direction." As discussed above with respect to *Lattin*, *Lattin* does not anticipate the extensible structure having all of its top side facing a general top side direction when its extensible structure is extended. As such, Applicant respectfully submits that *Lattin* does not anticipate Claim 17 and respectfully requests that the §102 rejection be withdrawn and submits that Claim 17 is ready for allowance.

Claims 18 and 27 are directly dependent upon Claim 17 and are therefore not anticipated for at least the same reasons as discussed above with respect to Claim 17. Applicant respectfully requests that the §102 rejection be withdrawn and submits that Claims 18 and 27 are ready for allowance.

Claim 28 is dependent upon independent Claim 17 and is therefore not anticipated for at least the same reasons as discussed above with respect to Claim 17. Furthermore, Claim 28 recites that "said structure is defined by dashed perforations." Applicant respectfully submits that *Lattin* does not teach or anticipate the use of dashed perforations in the Examiner cited Figure 18 of *Lattin*. In particular, Figure 18 is a cross sectional view of Figure 16 and there are no dashed perforations therein. Applicant therefore respectfully submits that *Lattin* does not teach or anticipate Claim 28 and respectfully requests the §102 rejection be withdrawn.

Claim 29 is dependent upon Claim 17 and is therefore not anticipated for at least the same reasons as discussed above with respect to Claim 17. Furthermore, Applicant points out

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that Claim 29 recites that the "structure comprises a boss for receiving a force to extend said structure out of said plane." The Examiner indicated that element 74 of *Lattin* is a boss. Applicant points out that element 74 of *Lattin* is not a boss but instead is an electrical connection or connector or electrode assembly. See Column 11, Lines 51-53. As such element 74 is a boss as described or generally illustrated in the present pending application as elements 118, 918. Applicant therefore submits that *Lattin* does not teach, allude to or anticipate Claim 29 and respectfully requests that the §102 rejection be withdrawn.

Claim 30 is dependent upon Claim 17 and is therefore not anticipated for at least the same reasons as discussed above with respect to Claim 17. Applicant therefore respectfully requests that this §102 rejection be withdrawn and submits that Claim 30 is ready for allowance.

Claim 37 is an independent claim and has been amended. Claim 37 recites that the structure has a "top side." Claim 37 goes on to recite that the structure "is extendable substantially perpendicular to said plane within the region defined by said plane, such that said top side remains facing in a general top side direction." Again, Applicant respectfully points out that *Lattin* does not anticipate an extendable structure wherein the top side remains facing in a general top side direction when the structure is extended. Applicant respectfully submits that Claim 17 is therefore not anticipated by *Lattin* and respectfully requests that the §102 rejection be withdrawn and submits that Claim 37 is ready for allowance.

Claim 38 is dependent upon Claim 37 and is therefore not anticipated for at least the same reasons as discussed above with respect to Claim 37. Applicant respectfully requests that the §102 rejection be withdrawn.

#### **Regarding the § 103 Rejection**

Claims 8-12, 22-26 and 39 were rejected under 35 U.S.C. §103 for being rendered obvious by *Lattin* in view of U.S. Patent No. 5,034,688 (*Moulene*).

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As discussed above, *Lattin* does not teach, allude to or render obvious an extendable structure that can be extended out of a plane by a distance greater than a maximum lateral dimension of the structure wherein the top side of the structure remains facing in a general top side direction. Furthermore, *Moulene* teaches a temperature conditioning support wherein a spiral is used to cool a fluid that flowing therethrough. *Moulene* does not teach, allude to or render obvious extending the spiral structure so that it is extended out of its plane by a distance greater than a maximum lateral dimension of the structure. In fact, *Moulene*, does not teach extending the spiral structure out of its stationary position. As such, Applicant respectfully points out that the combination of *Lattin* and *Moulene* do not teach, allude to or render obvious the present invention.

Furthermore, Applicant respectfully points out that §706.02(j) of the MPEP holds that there are three necessary elements to establish a *prima facie* case of obviousness as adapted by *In re: Vaeck*. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the referenced teachings. *In re: Vaeck*, 947 F.2d 488. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or references when combined, must teach or suggest all the claim limitations. The teaching or suggestion to make the claim combination and the reasonable expectation of success must both be found in the prior art and not be based on the Applicant's disclosure. *Id.*

Applicant respectfully points out that there is no teaching in *Moulene* to extend the spiral structure out of its original position. In fact, the spiral structure of *Moulene* is for cooling a fluid and held stationary within its plane or original position. As such, the combination of *Moulene* with *Lattin* does not provide a *prima facie* case of obviousness where one of ordinary skill in the art is taught to modify the reference or combine the referenced teachings. There is no expectation of success based on these two references being combined because there is no

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teaching. Furthermore, the prior art references when combined do not teach or suggest all the claimed limitations because there is not teaching in *Moulene* to extend the spiral structure out of its plane any specified distance. As such, Applicant respectfully submits that a *prima facie* case of obviousness has not been presented and respectfully requests that the §103 rejection be withdrawn. In doing so, Applicant respectfully submits that Claims 8-12, 22-26, and 39 are all ready for allowance.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: 11/14/05

Respectfully submitted,

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